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Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Strengthening accountability through enhanced transparency and measurability of the implementation of nuclear disarmament obligations and commitments under the Non-Proliferation Treaty

Working paper submitted by Ireland on behalf of Brazil, Egypt, Mexico, New Zealand and South Africa as members of the New Agenda Coalition

Introduction

1. The 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons recognized the importance of accountability for the implementation by States parties of their obligations and commitments under the Treaty. To this end, the Conference "agreed that Review Conferences should look forward as well as back. They should evaluate the results of the period they are reviewing, including the implementation of undertakings of the States parties under the Treaty, and identify the areas in which, and the means through which, further progress should be sought in the future. Review Conferences should also address specifically what might be done to strengthen the implementation of the Treaty and to achieve its universality".[1]

2. Accountability can only be pursued through the objective evaluation of the status of implementation of nuclear disarmament obligations and commitments during the course of the Treaty's review cycles. In order to be meaningful, this evaluation requires access to accurate, up-to-date, complete and comparable information. The evaluation process would further benefit from the identification of baselines and agreement on benchmarks or other criteria on the basis of which progress can be measured.

3. The call for accountability, and for the transparency needed to achieve it, is not new. For many years, the majority of States parties to the Non-Proliferation

[1] NPT/CONF.1995/32 (Part I), annex, decision 1, para. 7.

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Treaty have voiced the need for progress on nuclear disarmament and for access to evidence of that progress. Notwithstanding these calls, however, information on the implementation of nuclear disarmament obligations and commitments remains insufficient, not least because the nuclear-weapon States continue to report in an inconsistent and patchy manner, often providing the same data year after year.

4. Given the lack of sufficient and consistent information on measures taken by the nuclear-weapon States, it has not proved possible to properly utilize the opportunity afforded by the Treaty review process to assess the implementation of nuclear disarmament obligations and commitments. The lack of both a baseline data set and an objective set of criteria based on which progress can be measured has further contributed to this situation. As a result, and despite concerted efforts undertaken by the New Agenda Coalition and others during review cycles, interactive and transparent engagement on the status of implementation of existing commitments has been limited. Consequently, outcome documents have, in the main, focused on agreeing upon new commitments, even though existing commitments have remained unfulfilled. However, in order to fulfil its mandate and to remain responsive to current developments, it is essential that the review process both evaluate compliance with existing obligations and develop new measures.

Status of implementation of nuclear disarmament obligations and commitments

5. At a number of previous Review Conferences, States parties agreed to take certain steps and to fulfil specific actions as part of their implementation of the Non-Proliferation Treaty. The agreements reached relating to all three pillars of the Treaty, including the decisions and the resolution of the 1995 Review and Extension Conference, the 13 practical steps agreed upon in 2000 and the 2010 action plan, ensured the Treaty's continuing relevance. Although there has been significant progress on the nuclear non-proliferation and peaceful uses pillars of the Treaty, implementation of nuclear disarmament commitments is lagging. Moreover, the repeated commitment to pursuing and ensuring increased accountability with regard to Treaty obligations and related commitments has yet to be fully implemented. This status quo is unacceptable.

6. The New Agenda Coalition reiterates that each article of the Non-Proliferation Treaty is binding on all States parties at all times and in all circumstances. All States parties should be held fully accountable with respect to strict compliance with their obligations under the Treaty.

7. The New Agenda Coalition recalls that all earlier commitments and undertakings remain fully applicable and that failure to comply with these during past review cycles does not absolve any State party, and in particular the nuclear-weapon States, from their responsibility to take appropriate measures for their implementation as soon as possible, including effective legal measures.

8. The New Agenda Coalition further recalls the principles of irreversibility, verifiability and transparency, which States parties to the Treaty have undertaken to apply in relation to nuclear disarmament measures.

Principle of transparency

9. Transparency is closely associated with accountability. Actions related to transparency are not only central to the credibility of any disarmament measures, but also to measuring and ascertaining compliance with the Treaty and with States parties' obligations and commitments.

10. The Final Document of the 2000 Review Conference called for increased transparency by the nuclear-weapon States with regard to their nuclear weapons capabilities and the implementation of agreements pursuant to article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament. The 2010 Review Conference reaffirmed the principle of transparency, alongside irreversibility and verifiability, which would build increased confidence and trust and would contribute to sustainable disarmament.

11. The regular provision of accurate, up-to-date, complete and comparable information on the implementation of Treaty obligations is needed in order for the review process to fulfil its mandate in accordance with the 1995 decision on strengthening the review process for the Treaty.[2] Furthermore, such information is necessary for the establishment of the baseline that will be used to measure progress, for example against action 5 of the 2010 action plan.

12. The nuclear-weapon States have previously committed to providing such information. Step 12 of the 13 practical steps for the implementation of article VI, adopted by the 2000 Review Conference, calls for regular reports by all States parties on the implementation of article VI of the Treaty and of paragraph 4 (c) of the 1995 decision on principles and objectives for nuclear non-proliferation and disarmament.[3] Action 20 of the action plan adopted by the 2010 Review Conference reiterates this obligation.

13. Action 21 further encourages nuclear-weapon States to agree as soon as possible on a standard reporting form and to determine appropriate reporting intervals for the purpose of voluntarily providing standard information without prejudice to national security.

14. While nuclear-weapon States have provided varying levels of data regarding their national implementation of article VI, this reporting has not been standardized and is not subject to objective analysis. This state of affairs complicates the assessment and evaluation of progress.

15. In particular, the information provided does not cover the entire range of nuclear weapons and warheads and differs significantly in amount, nature and type between the nuclear-weapon States. Moreover, since the nuclear-weapon States have yet to agree on a standard reporting form, beyond what appears to be agreement on a table of contents, or on what constitutes appropriate reporting intervals as outlined in action 21 of the 2010 action plan, there is no common format for this information.

16. Lastly, no institutional mechanism exists to monitor the implementation of nuclear disarmament obligations.

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[2] Ibid., decision 1.

[3] Ibid., decision 2.

Measurability of progress on nuclear disarmament

17. Reporting and measuring progress in an objective manner is essential for accountability. In that respect, the New Agenda Coalition believes that the assessment and evaluation of information would be facilitated by the identification of baselines and by the application of analytical tools. One such tool could be a set of clearly defined, mutually understood and agreed-upon criteria or benchmarks that may take the form of targets, indicators and deadlines by which progress, or the lack thereof, on the implementation of nuclear disarmament obligations and commitments can be measured.

18. Agreement on how to measure the implementation of existing nuclear disarmament obligations and commitments would be desirable for a number of reasons.

19. First, as was made evident during the previous review cycle and at the 2015 Review Conference, progress is difficult to claim or recognize unless it can be measured. The existence of benchmarks would facilitate the objective assessment of compliance with Treaty obligations and could also act as an incentive for their implementation.

20. Second, the determination of benchmarks would ensure more specific reporting and thus enhance transparency and accountability through measurability, in a manner consistent with the object and purpose of the Non-Proliferation Treaty, as well as with evolving best practice in international treaty implementation.[4] Moreover, the inclusive discussion required in order to reach agreement on such criteria would, in itself, promote transparency in the steps to be taken by the nuclear-weapon States towards nuclear disarmament, something which has been lacking over recent years.

21. Third, discussion of and agreement on a set of benchmarks would help promote the implementation of the Non-Proliferation Treaty, raise awareness of existing nuclear disarmament obligations and the status of their implementation and enhance confidence within the Treaty community as a whole.

22. Agreeing upon a set of transparent benchmarks would not require any major new departures in the review process; the work that nuclear-weapon States, civil society, research institutes and international organizations have already undertaken on specified indicators could serve as food for thought for further discussion.

23. The New Agenda Coalition notes that not all obligations and commitments will have the same level of measurability and that this will have to be taken into account in the determination of benchmarks.

[4] The New Agenda Coalition notes that benchmarks have become a standard part of treaty implementation in the fields of the environment, trade, human rights, and disarmament and arms control. Although the mechanisms adopted by the States parties to the various treaties differ, they reflect the common understanding that international legal obligations and commitments must be implemented, and be seen to be implemented, to be credible. The idea of benchmarks is also clearly reflected in the 2030 Agenda for Sustainable Development and, in particular, in the Sustainable Development Goals.

24. Any agreed-upon benchmarks should reflect the principles of irreversibility, verifiability and transparency and should ensure that progress in the field of nuclear disarmament is accelerated, consistent and effective.

Recommendations for the 2020 review cycle

25. The New Agenda Coalition recommends that the following actions be taken with regard to transparency, measurability and accountability:

26. Nuclear-weapon States should renew their commitment to regularly submit accurate, up-to-date, complete and comparable reports on the implementation of their Treaty obligations and commitments relating to nuclear disarmament.

27. Nuclear-weapon States should include in their reports, to be submitted throughout the 2020 review cycle, concrete and detailed information concerning the implementation of their obligations and commitments on nuclear disarmament on, inter alia:

(a) Number, type (strategic or non-strategic) and status (deployed or non-deployed, and alert status) of nuclear warheads within their territories, as well as those deployed in the territories of other countries;

(b) Number and type of delivery vehicles;

(c) Measures taken to reduce the role and significance of nuclear weapons in military and security concepts, doctrines and policies;

(d) Measures taken to reduce the risk of unintended, unauthorized or accidental use of nuclear weapons;

(e) Measures taken to de-alert, or reduce the operational readiness of, nuclear weapon systems;

(f) Number and type of weapons and delivery systems dismantled and reduced as part of nuclear disarmament efforts;

(g) Amount of fissile material produced for military purposes;

(h) Information about plans, expenditures and number of facilities related to the modernization of nuclear weapons.

28. Other States parties to the Treaty that maintain a role for nuclear weapons in their military and security concepts, doctrines and policies are encouraged to also provide standardized information at regular intervals on, inter alia:

(a) Measures taken to reduce the role and significance of nuclear weapons in military and security concepts, doctrines and policies;

(b) Number, type (strategic or non-strategic) and status (deployed or non-deployed, and alert status) of nuclear warheads within their territories, where applicable;

(c) Number and type of delivery vehicles within their territories, where applicable.

29. The New Agenda Coalition recalls the continued validity, applicability and relevance of all commitments undertaken in 1995, 2000 and 2010, and calls on

nuclear-weapon States to report on measures taken to implement those commitments at the 2018 and 2019 meetings of the Preparatory Committee and at the 2020 Review Conference.

30. The New Agenda Coalition recalls General Assembly resolution 71/54 and paragraph 18 thereof and calls upon nuclear-weapon States to implement their nuclear disarmament obligations and commitments, both qualitative and quantitative, in a manner that enables the States parties to regularly monitor progress, including through a standard detailed reporting format or template.

31. The Preparatory Committee should discuss options to improve the measurability of the implementation of nuclear disarmament obligations and commitments, in order to ensure and facilitate the objective evaluation of progress.

32. Such options may include agreement on tools such as a set of benchmarks or similar criteria, which may take the form of targets, indicators and deadlines against which progress, or the lack thereof, on the implementation of nuclear disarmament obligations and commitments can be measured.

33. The New Agenda Coalition recommends that discussions on how to strengthen accountability through enhanced transparency and measurability continue throughout this review cycle, with a view to reaching a concrete outcome at the 2020 Review Conference.